

Minshall Family
5830 Irish Ave, Cloverdale, OR

6 December 2019

TILLAMOOK BOARD OF COUNTY COMMISSIONERS
TILLAMOOK COUNTY COURTHOUSE
201 LAUREL AVENUE
TILLAMOOK, OR 97141

Subject: Appeal and Testimony Regarding Land-Use Application #851-19-000105-PLNG

Dear Commissioners: please accept and consider the following statement in opposition to allowing commercial/industrial use of land otherwise designated for rural and residential use. The reasons for opposition are many, but this testimony/appeal centers on the following:

- Similar-use determination incorrectly equates a public utility to a private intercontinental cable
- Conditional-use determination lacked discretionary consideration by planning commissioners
- Comprehensive plan designates this specific tax lot as single-family residential
- Public opposition consistently demonstrated by many neighbors

Appreciation

It's appropriate to start by acknowledging the dedicated efforts of the planning commission, and expressing sincere appreciation for the time and effort expended in this matter. Likely, this position often seems thankless, but such is not the case. I'm certain that all parties acknowledge the many hours invested, and the clear dedication of all board members.

Similar Use Determination

Tillamook County's land-use code includes "Public utility facilities, including substations and transmission lines" among uses which may be conditionally approved. It's clearly written that "Public utility" is the primary object, with "transmission line" being simply an example. Facebook obviously fails to meet this primary definition. Furthermore, a public utility transmission line in an area such as Tierra del Mar would be expected to be local in nature, serving residents proximal to the installation. The applicant's installation is intercontinental in nature, and would not connect directly to the local community. At present, Tierra del Mar residents are not even offered fiber-optic internet service.

The applicant is not a public utility, and the proposed use is not a local transmission line. Therefore, the applicant's proposed use is NOT similar to a public utility transmission line, and should not have been granted this similar-use assessment by the planning commission.

Conditional Use Determination

I was very impressed with the diligence and care shown by the Planning Commission regarding the question of similar-use. While I've asserted that the decision was misguided, I do commend all Commissioners for the honest deliberation. However, I was shocked that the deliberations on conditional-use were so brief. The Commissioners very quickly bypassed the question of "should this be approved" and moved on to "what conditions should be applied to facilitate approval". I assert that

Commissioners inadvertently surrendered their right/obligation to exercise discretion in granting conditional-use permission. While there were attempts to discuss the appropriateness of an international cable on a residential lot, this discussion was disallowed on at least one occasion (the Chair and Director both asserting that a similar-use vote was de-facto approval for the conditional-use).

Article 6 of the county code clearly says that conditional-uses “may be made or deemed compatible” ... which also means that they “may not” do so. If the Commissioners lacked discretion, the language of the code would read “shall be made”, but it actually reads “may”. To date, the only entities empowered to grant/deny approval for this conditional use are the Director or the Planning Commission. To challenge the assertion I’m making, I suggest that the County Commission query of the Planning Commissioners ... “did you understand that even if a use is specifically listed as conditionally approved, the Planning Commission is authorized to deny such use if that use is deemed to be inappropriate for the designated location?”

The Board of County Commissioners is certainly equally empowered to exercise judgment in the land-use permitting process. I strongly urge the Commissioners to deny the application in the best interests of the county and its local residents.

Comprehensive Plan Designation

The Tillamook county comprehensive plan specifically mentions Tierra del Mar in the exceptions chapter (in fact, tax-lot 3200 is specifically included). Specifically, Goal 18, section 6.1b(i) states “The county findings for exception of the Tierra del Mar area are as follows:” ... then “i) Future development would be similar to what already exists, that being single family residential.” As such, non-residential uses of this designated tax-lot are codified as unexpected and undesired at a minimum.

Public Opposition

As a representative government, citizens understand that government officials act on our behalf. These officials are expected to represent the citizenry, and they do ... this method has worked quite well for hundreds of years. The unanimous opposition voiced by the residents of Tierra del Mar was acknowledged by the Planning Commission, but did not appear to carry much weight in the decision to grant the applicant’s proposed use. Instead, the Commission looked VERY carefully into the codes, but spent very little time discussing public opinion. If this question was brought to a popular vote, this land-use would most certainly have been rejected overwhelmingly.

I believe that all the points above are fact, but I’d like to close with opinion. Allowing an international conglomerate-corporation to begin commercial development in our quiet neighborhood clearly jeopardizes the character of our community. The calm voices of neighbors of equal standing will be overshadowed by a corporate giant. Allowing unwanted commercial development in a small bedroom community like Tierra del Mar opens the door to further unwanted development in other residential neighborhoods throughout the county and the state. Please reject this land-use application, directing the applicant towards a more suitable commercial site.

Respectfully,

Edmund (Ted) Minshall